IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.155 OF 1998

The Commissioner of Income-tax,
Bombay City - VI, Bombay .. Applicant.
V/s.
M/s.Ingersoll Rand (I) Ltd. .. Respondent.

Mr.A.S. Rao for the applicant.

Mr.P.J. Pardiwala i/b. Mr.R. D'Cunha for the respondent

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether in the facts and in the circumstances of the case, the Tribunal was justified in holding that premium paid under the Group Medical Insurance Scheme does not form part of perquisites for the purposes of disallowance under sections 40(c)/40A(5) ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount of house rent allowance exempt under sec.10(13A) of the Income-tax Act cannot be taken into account for the purpose of computing the disallowance under section 40A (5) of the Act ?

2. So far as Question No.1 is concerned, the learned counsel for the Revenue fairly states that the issue has already been decided by the Division Bench of this Court in the case of **Indian Oxyzen Ltd.**

V/s. CIT [(1994) 210 ITR 274 (Bom)] in favour of the assessee against the Revenue.

3. As regards to Question No.2 is concerned, the learned counsel for the Revenue fairly states that the issue has already been answered by the Division Bench of this Court in the case of **CIT V/s. Hindustan Petrolium Corp. Ltd. [(1991) 187 ITR 1 (Bom)]** in favour of the assessee and against the revenue.

4. In this view of the matter, both the questions stand answered in affirmative for the reasons stated in the cases cited supra.

5. Reference, accordingly stands disposed of with no order as to costs.

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